

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

Appendix A

LRB BILL HISTORY RESEARCH APPENDIX

 The drafting file for 2013 LRB-1206 (For: Senator Grothman)

has been copied/added to the drafting file for


2013 LRB-2034 (For: Senator Grothman)

 Are These “Companion Bills” ?? ... No



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 04/01/0213 (Per: MES)

 The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2013 DRAFTING REQUEST

Bill

Received: **1/16/2013** Received By: **mshovers**
Wanted: **As time permits** Same as LRB:
For: **Glenn Grothman (608) 266-7513** By/Representing: **Michael**
May Contact: Drafter: **mshovers**
Subject: **Tax, Individual - income credit** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Sen.Grothman@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Nonrefundable individual income tax credit for nonpublic school tuition expenses

Instructions:

See attached. Redraft 2011 SB 69, LRB 11-0941/3. Nonrefundable credit for K-12 tuition only; nonpublic and charter schools. Credit is phased in from 2014 to 2022. Pupil must be dependent child of claimant

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 1/17/2013	scalvin 1/31/2013	phenry 1/31/2013	_____			
/1	mshovers 2/11/2013			_____	mbarman 1/31/2013		State S&L
/2	mshovers 2/20/2013	scalvin 2/20/2013	phenry 2/20/2013	_____	lparisi 2/20/2013		State S&L

LRB-1206

2/20/2013 1:37:40 PM

Page 2

FE Sent For:

<END>

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See attached. Redraft 2011 SB 69, LRB 11-0941/3. Nonrefundable credit for K-12 tuition only; nonpublic and charter schools. Credit is phased in from 2014 to 2022. Pupil must be dependent child of claimant
for 12, limit tuition to "educational expenses"

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 1/17/2013	scalvin 1/31/2013	phenry 1/31/2013	_____			
/1			<i>hoph</i>	<i>gh</i>	mbarman 1/31/2013		State S&L

12 MES 2/11/13

FE Sent For:

<END>

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Drafting History:

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/? mshovers 11 SAC
01/31/2013
1/17/13 1/31
ME S 11/17/13
FE Sent For: Ph

<END>

Shovers, Marc

From: Murphy, Michael
Sent: Tuesday, January 15, 2013 4:33 PM
To: Shovers, Marc
Subject: Bill Redraft Request

Hello Marc,

Could you redraft 2011 LRB-0941, the tuition tax credit bill?

Thanks!

Michael P. Murphy
Office of Sen. Glenn Grothman
20th Senate District
800-662-1227

MEMORANDUM

April 27, 2011

TO: Marc Shovers
Legislative Reference Bureau

FROM: Rebecca Boldt
Department of Revenue

SUBJECT: Technical Memorandum on Senate Bill 69: Creating a Nonrefundable Individual Income Tax Credit for Tuition Expenses Paid for Dependents Who Attend Private Elementary and Secondary Schools

The Department has the following concerns related to the bill:

Policy issue
The phase-in of the credit may be confusing to parents and could cause delays related to improper claims. An alternative phase-in would allow a reduced credit for all students in the first year and then annually increase the maximum amount of credit.

change rule in par.(c).
The bill is silent on the determination date of the pupil's grade. For example, in January of 2012 if a parent pays \$750 of tuition for the child to attend kindergarten from January – June. This would qualify for the credit. However, in August the parent pays another \$1,000 but the child is then in first grade and a first grade pupil does not qualify for the credit. This will be a problem for the year in which the child advances to a grade where the amount of credit increases (e.g. , \$1,500 for grade 5 but \$2,000 for grade 6).

Policy issue
It could be argued that a parent could claim two credits in the same year for a single dependent. For example, a parent could claim \$1,500 for January to June when the child is a fifth grade pupil plus \$2,000 for September to December when the child is a sixth grade pupil. This would allow a total credit of \$3,500 for the year.

Policy issue
Because a nonresident can claim the credit, it appears the private school does not have to be located in Wisconsin. The school must only meet the criteria in sec. 118.165, which does not limit the location of the school to Wisconsin. It is not clear if this is the intent.

Remove init opp
If this bill were to take effect before August 1, 2011, the initial applicability date would be January 1 of 2011. However, the statutory language conflicts with this date as the credit first applies to "taxable years beginning after December 31, 2011."

If you have any questions regarding this technical memorandum, please contact Brad Caruth at (608) 261-8984 or bradley.caruth@revenue.wi.gov.

cc: Senator Grothman



State of Wisconsin
2011 - 2012 LEGISLATURE

1206/1

FRIDAY
per requester

RMNR



2013 ~~2011~~ SENATE BILL 692

April 20, 2011 - Introduced by Senators GROTHMAN, GALLOWAY, LAZICH and LEIBHAM, cosponsored by Representatives JACQUE, KLEEFISCH, WYNN, HONADEL, KAPENGA, KAUFERT, KNILANS, LEMAHIEU, LITJENS, MURTHA, PETRYK, PRIDEMORE, THIESFELDT, VOS and ZIEGELBAUER. Referred to Committee on Education.

gen

gen act

purf ✓

- 1 AN ACT to create 71.07 (8m) and 71.10 (4) (cs) of the statutes; relating to:
- 2 creating a nonrefundable individual income tax credit for tuition expenses paid
- 3 for dependents who attend private elementary and secondary schools.

Analysis by the Legislative Reference Bureau

This bill creates a nonrefundable individual income tax credit for amounts spent by a claimant on tuition expenses, in the year to which the claim relates, for the claimant's dependent children to attend private schools for grades kindergarten to 12. Because the credit is nonrefundable, no refund is paid if the amount of the credit exceeds the taxpayer's tax liability.

The maximum credit that may be claimed under the bill per year, per child, if the claimant files as a single individual or head of household, or if the claimant is a married person filing a joint return, is phased in from ~~2014~~ to ~~2020~~. Under the bill, for taxable years beginning on or after January 1, ~~2014~~, the maximum credit that may be claimed is \$1,500 for a kindergarten pupil and \$2,500 for a ninth grade pupil; in ~~2015~~, \$1,500 for a first grade pupil and \$2,500 for a tenth grade pupil; in ~~2016~~, \$1,500 for a second grade pupil and \$2,500 for an 11th grade pupil; in ~~2017~~, \$1,500 for a third grade pupil and \$2,500 for a 12th grade pupil; for ~~2018~~, \$1,500 for a fourth grade pupil; for ~~2019~~, \$1,500 for a fifth grade pupil; for ~~2020~~, \$2,000 for a sixth grade pupil; for ~~2021~~, \$2,000 for a seventh grade pupil; and for ~~2022~~, \$2,000 for an eighth grade pupil. The maximum credit that may be claimed by a married person filing a separate return per year, per child, is 50 percent of the amount that may be claimed by a married joint filer. The amount of credit that may be claimed by a nonresident

2015
2019
2021
2014
2016
2017
2018
2020
2022

SENATE BILL 69

or part-year resident of this state is modified based on the ratio of the claimant's Wisconsin adjusted gross income (AGI) to his or her federal AGI.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 71.07 (8m) of the statutes is created to read:

2 71.07 (8m) NONPUBLIC EDUCATION EXPENSES CREDIT. (a) *Definitions.* In this
3 subsection:

4 1. "Claimant" means an individual who claims a pupil as a dependent under
5 section 151 (c) of the Internal Revenue Code, on his or her tax return.

6 2. "Eligible institution" means a private school, as defined in s. 115.001 (3r),
7 that meets all of the criteria under s. 118.165 (1).

8 3. "Pupil" means an individual who is enrolled in kindergarten or grades 1 to
9 12 at an eligible institution and who is a dependent of the claimant under section 151
10 (c) of the Internal Revenue Code.

11 4. "Tuition" means any amount paid by a claimant, in the year to which the
12 claim relates, for a pupil's tuition to attend an eligible institution.

13 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
14 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
15 amount of those taxes, one of the following amounts paid for tuition in the year to
16 which the claim relates:

17 1. For taxable years beginning after December 31, ~~2011~~²⁰¹³, for a pupil who is in
18 kindergarten, \$1,500 and for a pupil who is in 9th grade, \$2,500.

19 2. For taxable years beginning after December 31, ~~2011~~²⁰¹⁴, for a pupil who is in
20 1st grade, \$1,500 and for a pupil who is in 10th grade, \$2,500.

SENATE BILL 69

- (1) 3. For taxable years beginning after December 31, ~~2014~~²⁰¹⁵, for a pupil who is in
2 2nd grade, \$1,500 and for a pupil who is in 11th grade, \$2,500.
- (3) 4. For taxable years beginning after December 31, ~~2014~~²⁰¹⁶, for a pupil who is in
4 3rd grade, \$1,500 and for a pupil who is in 12th grade, \$2,500.
- (5) 5. For taxable years beginning after December 31, ~~2015~~²⁰¹⁷, for a pupil who is in
6 4th grade, \$1,500.
- (7) 6. For taxable years beginning after December 31, ~~2016~~²⁰¹⁸, for a pupil who is in
8 5th grade, \$1,500.
- (9) 7. For taxable years beginning after December 31, ~~2017~~²⁰¹⁹, for a pupil who is in
10 6th grade, \$2,000.
- (11) 8. For taxable years beginning after December 31, ~~2018~~²⁰²⁰, for a pupil who is in
12 7th grade, \$2,000.
- (13) 9. For taxable years beginning after December 31, ~~2019~~²⁰²¹, for a pupil who is in
14 8th grade, \$2,000.
- 15 (c) *Limitations.* 1. Subject to subd. 4., the maximum credit that may be claimed
16 under this subsection by a claimant who files as a single individual or head of
17 household is the amount specified in ^{one of the subdivisions under} par. (b), for each pupil, in each year to which the
18 claim relates.
- 19 2. Subject to subd. 4., the maximum credit that may be claimed under this
20 subsection by claimants who are a married couple and file a joint return is the
21 amount specified in par. (b), for each pupil, in each year to which the claim relates.
- 22 3. Subject to subd. 4., the maximum credit that may be claimed by each spouse
23 of a married couple that files separately is 50 percent of the amount described in
24 subd. 2.

SENATE BILL 69

4. If a part-year resident or a nonresident of this state files a claim under this subsection, the maximum credit amount in subd. 1., 2., or 3. shall be multiplied by a fraction, the numerator of which is the individual's and his or her spouse's Wisconsin adjusted gross income and the denominator of which is the individual's and his or her spouse's federal adjusted gross income. In this subdivision, for married persons filing separately "adjusted gross income" means the separate adjusted gross income of each spouse, and for married persons filing jointly "adjusted gross income" means the total adjusted gross income of both spouses.

5. No credit may be allowed under this subsection unless it is claimed within the time period under s. 71.75 (2).[✓]

6. No credit may be allowed under this subsection for a taxable year covering a period of less than 12 months, except for a taxable year closed by reason of the death of the taxpayer.

(d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit under that subsection, applies to the credit under this subsection.

SECTION 2. 71.10 (4) (cs) of the statutes is created to read:

71.10 (4) (cs) Nonpublic education expenses credit under s. 71.07 (8m).

SECTION 3. Initial applicability.

(1) This act first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect on or after August 1 this act first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.

(END)

D-NOTE

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0941/1dn

MES:11:13

- date

January 18, 2011

including the credit

To address a technical ^{and also} concern raised by the Department of Revenue, sub. (8m) (d) 1, ^{now} states that "the maximum credit that may be claimed... is the amount specified in one of the subdivisions under" par. (b), for each pupil...". This language will avoid confusion when a pupil is in ^{two} grades during one calendar year, i.e. 5th grade from January to June and 6th grade from September to December. If Senator Grothman: this is not your intent, please let me know.

This drafter's note is ^{also} meant to alert you that, should this bill become law, it could be challenged as possibly violating the Equal Protection and Establishment Clauses of the U.S. Constitution and the related provisions of the Wisconsin Constitution. A potential equal protection problem is this bill is available only to parents of children who attend private and charter schools, but not to parents of children who attend public schools. Opponents of the bill could also argue that, because the bill may make it easier for pupils to attend a school at which the teaching of religious tenets, doctrines, or worship occurs, the primary effect of the bill is to benefit parochial schools in violation of the Establishment Clause.

In the case of *Mueller v. Allen*, 463 U.S. 388, 103 S. Ct. 3062 (1983), the U.S. Supreme Court upheld a Minnesota statute that allows taxpayers to deduct from their gross annual income expenses incurred, up to a certain level, for "tuition, textbooks and transportation" for their children in public or private elementary or secondary school.

Although an argument can be made that *Mueller* would apply to the tax credit created in this bill, you should be aware that the *Mueller* case was a close decision approved by a 5 to 4 majority. As the dissent in *Mueller* points out, starting at 463 U.S. 404 and 103 S. Ct. 3072, the majority decision seems to fly in the face of a long series of Supreme Court decisions, such as *Committee for Public Education and Religious Liberty v. Nyquist*, 413 U.S. 756, 93 S. Ct. 2955 (1973), *Lemon v. Kurtzman*, 403 U.S. 602, 91 S. Ct. 2105 (1971), and *Sloan v. Lemon*, 413 U.S. 825, 93 S. Ct. 2982 (1973), which were all decided by much stronger majorities.

Under *Mueller*, however, supporters of this bill could argue that the bill is constitutional for several reasons. First, it evinces a proper and secular legislative purpose in creating an educated populace. Second, the Establishment Clause is not violated because the assistance is provided to the taxpayer and not to the school itself. *Mueller* at 399 and 103 S. Ct. at 3069.

Opponents of the bill could also make several strong arguments against the bill's constitutionality. First, they could argue that this bill is different from the law addressed in *Mueller* because, unlike the Minnesota statute, the credit in this bill is not available to all parents — it is available only to the parents of children who attend sectarian or nonsectarian private and charter schools so the bill arguably *does* have the

"primary effect of advancing the sectarian aims of the nonpublic schools." See *Mueller* at 396 and 103 S. Ct. at 3067 (citations omitted). Just two years after *Mueller* was decided, the Supreme Court noted the significance of the fact that the Minnesota law applied to parents whose children attended both public and private schools. See *School District of the City of Grand Rapids v. Ball*, 473 U.S. 373, 396. In fact, the *Mueller* majority itself thought that this fact was an important distinction between the Minnesota law and the law that was found unconstitutional in *Nyquist*. See *Mueller* at 398-399.

Second, a court will not necessarily accept the legislature's claim that the bill has a secular or public purpose, *State ex. rel. Warren v. Reuter*, 44 Wis. 2d 201, 212 (1969), and that "the propriety of a legislature's purposes may not immunize from further scrutiny a law which...has a primary effect that advances religion," *Nyquist* at 774, 93 S. Ct. at 2966.

Third, *Nyquist* and *Kurtzman* forbid any direct or indirect subsidy of religious education through any sort of a tax credit, subsidy, or deduction and, opponents could argue, the "primary effect" of this bill is to do precisely that, at least indirectly. See *Nyquist* at 783, 786, 789-791, 793, and 794, and 93 S. Ct. at 2971 to 2974 and 2976, *Kurtzman* at 613 and 625, and 91 S. Ct. at 2111 and 2117. Opponents could cite one of the reasons the Supreme Court struck down the New York law at issue in *Nyquist*: there was an "...absence of an effective means of guaranteeing that the state aid derived from public funds will be used exclusively for secular, neutral, and nonideological purposes..."

Even if an effective means exists to guarantee that no public money is used to teach religious doctrines, opponents of the bill could argue that it still runs afoul of *Nyquist* by claiming that the bill provides an indirect subsidy to religious education merely by making attendance at religiously affiliated institutions more affordable. "By reimbursing parents for a portion of their tuition bill, the State seeks to relieve their financial burdens sufficiently to assure that they continue to have the option to send their children to religion-oriented schools." *Nyquist* at 784.

In addition, it could be argued by opponents of the bill that it violates the Wisconsin Constitution because art. I, sec. 18, is more prohibitive than the religion clauses in the federal constitution, *Reuter* at 227 and 58 Opinion of the Attorney General 163, 167 (1969). Although the Wisconsin Supreme Court believes that the federal Establishment Clause should be used as a guide to interpret art. I, sec. 18, of the state constitution (see *King v. Village of Waunakee*, 185 Wis. 2d 25, 54-55 (1994) and *Jackson v. Benson*, 218 Wis. 2d 835, 876-878 (1998)), the Court has also reaffirmed its prior decisions stating that "the Wisconsin Constitution [provides] stronger protection of religious freedom than that envisioned in the federal constitution." *State v. Miller*, 202 Wis. 2d 56, 64 (1996).

This is a very complex issue and, in light of the conflicting precedents that exist in this area of constitutional law, it is impossible to determine whether this bill would withstand a constitutional challenge. I believe, however, that a summary of the various arguments involved should be brought to your attention.

If you have any further questions about these issues, please don't hesitate to contact me.

Marc E. Shovers
Managing Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1206/1dn
MES:sac:ph

January 31, 2013

Senator Grothman:

To address a technical concern raised by the Department of Revenue, sub. (8m) (d) 1. and 2. now state that "the maximum credit that may be claimed ... is the amount specified in "one of the subdivisions under" par. (b), for each pupil, ...". This language will avoid confusion in claiming the credit when a pupil is in two grades during one calendar year, i.e. 5th grade from January to June and 6th grade from September to December. If this is not your intent, please let me know.

This drafter's note is also meant to alert you that, should this bill become law, it could be challenged as possibly violating the Equal Protection and Establishment Clauses of the U.S. Constitution and the related provisions of the Wisconsin Constitution. A potential equal protection problem is this bill is available only to parents of children who attend private and charter schools, but not to parents of children who attend public schools. Opponents of the bill could also argue that, because the bill may make it easier for pupils to attend a school at which the teaching of religious tenets, doctrines, or worship occurs, the primary effect of the bill is to benefit parochial schools in violation of the Establishment Clause.

In the case of *Mueller v. Allen*, 463 U.S. 388, 103 S. Ct. 3062 (1983), the U.S. Supreme Court upheld a Minnesota statute that allows taxpayers to deduct from their gross annual income expenses incurred, up to a certain level, for "tuition, textbooks and transportation" for their children in public or private elementary or secondary school.

Although an argument can be made that *Mueller* would apply to the tax credit created in this bill, you should be aware that the *Mueller* case was a close decision approved by a 5 to 4 majority. As the dissent in *Mueller* points out, starting at 463 U.S. 404 and 103 S. Ct. 3072, the majority decision seems to fly in the face of a long series of Supreme Court decisions, such as *Committee for Public Education and Religious Liberty v. Nyquist*, 413 U.S. 756, 93 S. Ct. 2955 (1973), *Lemon v. Kurtzman*, 403 U.S. 602, 91 S. Ct. 2105 (1971), and *Sloan v. Lemon*, 413 U.S. 825, 93 S. Ct. 2982 (1973), which were all decided by much stronger majorities.

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Opponents of the bill could also make several strong arguments against the bill's constitutionality. First, they could argue that this bill is different from the law addressed in *Mueller* because, unlike the Minnesota statute, the credit in this bill is not available to all parents — it is available only to the parents of children who attend sectarian or nonsectarian private and charter schools so the bill arguably *does* have the “primary effect of advancing the sectarian aims of the nonpublic schools.” See *Mueller* at 396 and 103 S. Ct. at 3067 (citations omitted). Just two years after *Mueller* was decided, the Supreme Court noted the significance of the fact that the Minnesota law applied to parents whose children attended both public and private schools. See *School District of the City of Grand Rapids v. Ball*, 473 U.S. 373, 396. In fact, the *Mueller* majority itself thought that this fact was an important distinction between the Minnesota law and the law that was found unconstitutional in *Nyquist*. See *Mueller* at 398–399.

Second, a court will not necessarily accept the legislature's claim that the bill has a secular or public purpose, *State ex. rel. Warren v. Reuter*, 44 Wis. 2d 201, 212 (1969), and that “the propriety of a legislature's purposes may not immunize from further scrutiny a law which...has a primary effect that advances religion,” *Nyquist* at 774, 93 S. Ct. at 2966.

Third, *Nyquist* and *Kurtzman* forbid any direct or indirect subsidy of religious education through any sort of a tax credit, subsidy, or deduction and, opponents could argue, the “primary effect” of this bill is to do precisely that, at least indirectly. See *Nyquist* at 783, 786, 789–791, 793, and 794, and 93 S. Ct. at 2971 to 2974 and 2976, *Kurtzman* at 613 and 625, and 91 S. Ct. at 2111 and 2117. Opponents could cite one of the reasons the Supreme Court struck down the New York law at issue in *Nyquist*: there was an “...absence of an effective means of guaranteeing that the state aid derived from public funds will be used exclusively for secular, neutral, and nonideological purposes...”

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In addition, it could be argued by opponents of the bill that it violates the Wisconsin Constitution because art. I, sec. 18, is more prohibitive than the religion clauses in the federal constitution, *Reuter* at 227 and 58 Opinion of the Attorney General 163, 167 (1969). Although the Wisconsin Supreme Court believes that the federal Establishment Clause should be used as a guide to interpret art. I, sec. 18, of the state constitution (see *King v. Village of Waunakee*, 185 Wis. 2d 25, 54–55 (1994) and *Jackson v. Benson*, 218 Wis. 2d 835, 876–878 (1998)), the Court has also reaffirmed its prior decisions stating that “the Wisconsin Constitution [provides] stronger protection of religious freedom than that envisioned in the federal constitution.” *State v. Miller*, 202 Wis. 2d 56, 64 (1996).

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Marc E. Shovers
Managing Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

Murphy, Michael

To: Shovers, Marc
Subject: LRB 1206 - Redraft Request

Hello Marc,

We would like to make some substantial changes to our draft with new items underlined:

- The individual income tax credit will apply to amounts spent on a claimant's tuition, textbook or tutoring expenses
- Tutoring expenses will refer only to relevant kindergarten, elementary or high school coursework
- The credit will apply for the claimant's dependent children to attend public or private schools for grades kindergarten through 12
- The credit will apply to all grades for taxable years beginning after December 31, 2013
- The credit that can be claimed for kindergarten and elementary students beginning in 2014 is \$1000; the credit will increase \$100 per year to a maximum of \$1500 in year 2018
- The credit that can be claimed for high school students beginning in 2014 is \$1500; the credit will increase \$200 per year to a maximum of \$2500 in year 2018

Michael P. Murphy
Office of Sen. Glenn Grothman
20th Senate District
800-662-1227

2 DRAFTS APPLICABLE

FOR STUDENT IN
SAME YEAR

STUDENTS PENDING
GRADUATION

TAX CREDIT = SENATOR CREDIT

Clarify 2 bills

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

1) school = any school that does not
receive > \$3,000 in taxpayer support
or parent who gets > \$3,000 in taxpayer
support

2) It is for tuition only

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

payments from a state or from the
property levy.

★ state aid or prop tax revenue
ref. OPZ to provide the information to POF

15,000 (13) ←
credit is for the school year that ends
in the FY to which the claim relates

any public or private elem or secondary
school, including a charter school



State of Wisconsin
2013 - 2014 LEGISLATURE

LRB-12064-2
MES:sac:ps

WANTED!
wed. p.m. or
Thurs. a.m.

2013 BILL

\$1,000 for an elementary pupil (a pupil in kindergarten or grades one to eight) and \$1,500 for a secondary pupil (a pupil in grades nine to twelve)

that does not receive more than \$3,000 in state aid or property tax revenue, per pupil, for the school year that ends in the taxable year to which the claim relates

- 1 AN ACT to create 71.07 (8m) and 71.10 (4) (cs) of the statutes; relating to:
- 2 creating a nonrefundable individual income tax credit for tuition expenses paid
- 3 for dependents who attend ^{certain public and} private elementary and secondary schools.

Analysis by the Legislative Reference Bureau ^{for educational}

This bill creates a nonrefundable individual income tax credit for amounts spent by a claimant on tuition expenses, in the year to which the claim relates, for the claimant's dependent children to attend ^{any public or private} private school ^{in grades kindergarten through 12} grades kindergarten through 12. Because the credit is nonrefundable, no refund is paid if the amount of the credit exceeds the taxpayer's tax liability.

The maximum credit that may be claimed under the bill per year, per child, if the claimant files as a single individual or head of household, or if the claimant is a married person filing a joint return, is phased in from 2014 to 2022. Under the bill, for taxable years beginning on or after January 1, 2014, the maximum credit that may be claimed is \$1,500 for a kindergarten pupil and \$2,500 for a ninth grade pupil in 2015, \$1,500 for a first grade pupil and \$2,500 for a tenth grade pupil in 2016, \$1,500 for a second grade pupil and \$2,500 for an 11th grade pupil in 2017, \$1,500 for a third grade pupil and \$2,500 for a 12th grade pupil for 2018, \$1,500 for a fourth grade pupil for 2019, \$1,500 for a fifth grade pupil; for 2020, \$2,000 for a sixth grade pupil; for 2021, \$2,000 for a seventh grade pupil; and for 2022, \$2,000 for an eighth grade pupil. The maximum credit that may be claimed by a married person filing a separate return per year, per child, is 50 percent of the amount that may be claimed by a married joint filer. The amount of credit that may be claimed by a nonresident

\$1,100 for an elementary pupil and \$1,700 for a secondary pupil

\$1,400 for elementary and \$2,300 for secondary; for 2019 and thereafter, \$1,500 for elementary and \$2,500 for secondary.

for elementary or secondary
LPS: elementary or secondary
\$1,200 for elementary
\$1,900 for secondary
\$1,300 for elementary
\$2,100 for secondary

BILL

2. "Elementary pupil" means an individual who is enrolled in kindergarten or grades K-8 and who is a dependent of the claimant under section 151(c) of the Internal Revenue Code, or part-year resident of this state is modified based on the ratio of the claimant's Wisconsin adjusted gross income (AGI) to his or her federal AGI.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

the claimant may claim the credit for that pupil for only one grade.
The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 71.07 (8m) of the statutes is created to read:

2 71.07 (8m) ~~NOTHING~~ EDUCATION EXPENSES CREDIT. (a) Definitions. In this
3 subsection: *that does not receive more than \$3,000 in state aid or property tax revenue, per pupil, for the school year that ends in the taxable year to which the claim relates*

4 1. "Claimant" means an individual who claims a pupil as a dependent under
5 section 151 (c) of the Internal Revenue Code, on his or her tax return.

6 3.2 "Eligible institution" means *any public or private school, as defined in s. 115.001(3),*

7 *that meets all of the criteria under s. 118.165(4) including a charter school,*

8 4.3 "Pupil" means *an elementary pupil or a secondary pupil. \$5, secondary* an individual who is enrolled in kindergarten or grades *one* *nine* to 12 at an eligible institution and who is a dependent of the claimant under section

10 151 (c) of the Internal Revenue Code.

11 6.1 "Tuition" means any amount paid by a claimant, in the year to which the
12 claim relates, for a pupil's tuition *for educational expenses* to attend an eligible institution.

13 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
14 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
15 amount of those taxes, one of the following amounts paid for tuition in the year to
16 which the claim relates:

17 1. For taxable years beginning after December 31, 2013, *and before January 1, 2015,* for *an elementary* a pupil who is in *kindergarten, \$1,000* and for a pupil who is in 9th grade, *\$2,500.*
18 *and before January 1, 2016,*
19 2. For taxable years beginning after December 31, 2014, *and before January 1, 2016,* for *an elementary* a pupil who is in *kindergarten, \$1,000* and for a pupil who is in 10th grade, *\$2,500.*
20 *and before January 1, 2017,*

BILL

- 1 3. For taxable years beginning after December 31, 2015, for a pupil who is in
 2 ~~2nd grade, \$1,500~~ ^{\$1,200 secondary} and for a pupil who is in 11th grade, ~~\$2,500~~ ^{\$1,900} and before January 1, 2017,
 3 4. For taxable years beginning after December 31, 2016, for a pupil who is in
 4 ~~3rd grade, \$1,500~~ ^{\$1,300 secondary} and for a pupil who is in 12th grade, ~~\$2,500~~ ^{\$2,100} and before January 1, 2019,
 5 5. For taxable years beginning after December 31, 2017, for a pupil who is in
 6 ~~4th grade, \$1,500~~ ^{\$1,400} and for a secondary pupil, ~~\$2,500~~ ^{\$2,300} and before January 1, 2018,
 7 6. For taxable years beginning after December 31, 2018, for a pupil who is in
 8 ~~5th grade, \$1,500~~ ^{\$1,400} and for a secondary pupil, ~~\$2,500~~ ^{\$2,300} and before January 1, 2019,
 9 7. For taxable years beginning after December 31, 2019, for a pupil who is in
 10 6th grade, \$2,000.
 11 8. For taxable years beginning after December 31, 2020, for a pupil who is in
 12 7th grade, \$2,000.
 13 9. For taxable years beginning after December 31, 2021, for a pupil who is in
 14 8th grade, \$2,000.

15 (c) Limitations. 1. Subject to subd. 4., the maximum credit that may be claimed
 16 under this subsection by a claimant who files as a single individual or head of

17 household is the amount specified in one of the subdivisions under par. (b), for each
 18 elementary pupil or secondary pupil, in each year to which the claim relates.

If an individual is an elementary pupil and a secondary pupil in the same taxable year, the claimant may claim the credit for only one grade for that pupil for that taxable year.

19 2. Subject to subd. 4., the maximum credit that may be claimed under this
 20 subsection by claimants who are a married couple and file a joint return is the
 21 amount specified one of the subdivisions under in par. (b), for each elementary pupil or secondary
 22 to which the claim relates.

23 3. Subject to subd. 4., the maximum credit that may be claimed by each spouse
 24 of a married couple that files separately is 50 percent of the amount described in
 25 subd. 2.

(END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1206/2
MES:sac:ph

2013 BILL

- 1 AN ACT *to create* 71.07 (8m) and 71.10 (4) (cs) of the statutes; **relating to:**
2 creating a nonrefundable individual income tax credit for tuition expenses paid
3 for dependents who attend certain public and private elementary and
4 secondary schools.

Analysis by the Legislative Reference Bureau

This bill creates a nonrefundable individual income tax credit for amounts spent by a claimant on tuition for educational expenses, in the year to which the claim relates, for the claimant's dependent children to attend any public or private elementary or secondary school that does not receive more than \$3,000 in state aid or property tax revenue, per pupil, for the school year that ends in the taxable year to which the claim relates. Because the credit is nonrefundable, no refund is paid if the amount of the credit exceeds the taxpayer's tax liability.

The maximum credit that may be claimed under the bill per year, per child, if the claimant files as a single individual or head of household, or if the claimant is a married person filing a joint return, is phased in from 2014 to 2019. Under the bill, for taxable year 2014, the maximum credit that may be claimed is \$1,000 for an elementary pupil (a pupil in kindergarten or grades one to eight) and \$1,500 for a secondary pupil (a pupil in grades nine to twelve); in 2015, \$1,100 for an elementary pupil and \$1,700 for a secondary pupil; in 2016, \$1,200 for elementary and \$1,900 for secondary; in 2017, \$1,300 for elementary and \$2,100 for secondary; for 2018, \$1,400 for elementary and \$2,300 for secondary; for 2019 and thereafter, \$1,500 for elementary and \$2,500 for secondary. The maximum credit that may be claimed by

BILL

a married person filing a separate return per year, per child, is 50 percent of the amount that may be claimed by a married joint filer. The amount of credit that may be claimed by a nonresident or part-year resident of this state is modified based on the ratio of the claimant's Wisconsin adjusted gross income (AGI) to his or her federal AGI. If a pupil is an elementary and a secondary pupil in the same year, the claimant may claim the credit for that pupil for only one grade.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.07 (8m) of the statutes is created to read:

2 **71.07 (8m) EDUCATION EXPENSES CREDIT.** (a) *Definitions.* In this subsection:

3 1. "Claimant" means an individual who claims a pupil as a dependent under
4 section 151 (c) of the Internal Revenue Code, on his or her tax return.

5 2. "Elementary pupil" means an individual who is enrolled in grades
6 kindergarten to 8 at an eligible institution and who is a dependent of the claimant
7 under section 151 (c) of the Internal Revenue Code.

8 3. "Eligible institution" means any public or private elementary or secondary
9 school, including a charter school, that does not receive more than \$3,000 in state aid
10 or property tax revenue, per pupil, for the school year that ends in the taxable year
11 to which the claim relates.

12 4. "Pupil" means an elementary pupil or secondary pupil.

13 5. "Secondary pupil" means an individual who is enrolled in grades 9 to 12 at
14 an eligible institution and who is a dependent of the claimant under section 151 (c)
15 of the Internal Revenue Code.

16 6. "Tuition" means any amount paid by a claimant, in the year to which the
17 claim relates, for a pupil's tuition, for educational expenses, to attend an eligible
18 institution.

BILL

1 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
2 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
3 amount of those taxes, one of the following amounts paid for tuition in the year to
4 which the claim relates:

5 1. For taxable years beginning after December 31, 2013, and before January
6 1, 2015, for an elementary pupil, \$1,000 and for a secondary pupil, \$1,500.

7 2. For taxable years beginning after December 31, 2014, and before January
8 1, 2016, for an elementary pupil, \$1,100 and for a secondary pupil, \$1,700.

9 3. For taxable years beginning after December 31, 2015, and before January
10 1, 2017, for an elementary pupil, \$1,200 and for a secondary pupil, \$1,900.

11 4. For taxable years beginning after December 31, 2016, and before January
12 1, 2018, for an elementary pupil, \$1,300 and for a secondary pupil, \$2,100.

13 5. For taxable years beginning after December 31, 2017, and before January
14 1, 2019, for an elementary pupil \$1,400 and for a secondary pupil, \$2,300.

15 6. For taxable years beginning after December 31, 2018, for an elementary
16 pupil, \$1,500 and for a secondary pupil, \$2,500.

17 (c) *Limitations.* 1. Subject to subd. 4., the maximum credit that may be claimed
18 under this subsection by a claimant who files as a single individual or head of
19 household is the amount specified in one of the subdivisions under par. (b), for each
20 elementary pupil or secondary pupil, in each year to which the claim relates. If an
21 individual is an elementary pupil and a secondary pupil in the same taxable year, the
22 claimant may claim the credit for only one grade for that pupil for that taxable year.

23 2. Subject to subd. 4., the maximum credit that may be claimed under this
24 subsection by claimants who are a married couple and file a joint return is the
25 amount specified one of the subdivisions under in par. (b), for each elementary pupil

BILL**SECTION 1**

1 or secondary pupil, in each year to which the claim relates. If an individual is an
2 elementary pupil and a secondary pupil in the same taxable year, the claimant may
3 claim the credit for only one grade for that pupil for that taxable year.

4 3. Subject to subd. 4., the maximum credit that may be claimed by each spouse
5 of a married couple that files separately is 50 percent of the amount described in
6 subd. 2.

7 4. If a part-year resident or a nonresident of this state files a claim under this
8 subsection, the maximum credit amount in subd. 1., 2., or 3. shall be multiplied by
9 a fraction, the numerator of which is the individual's and his or her spouse's
10 Wisconsin adjusted gross income and the denominator of which is the individual's
11 and his or her spouse's federal adjusted gross income. In this subdivision, for
12 married persons filing separately "adjusted gross income" means the separate
13 adjusted gross income of each spouse, and for married persons filing jointly "adjusted
14 gross income" means the total adjusted gross income of both spouses.

15 5. No credit may be allowed under this subsection unless it is claimed within
16 the time period under s. 71.75 (2).

17 6. No credit may be allowed under this subsection for a taxable year covering
18 a period of less than 12 months, except for a taxable year closed by reason of the death
19 of the taxpayer.

20 (d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit
21 under that subsection, applies to the credit under this subsection.

22 **SECTION 2.** 71.10 (4) (cs) of the statutes is created to read:

23 71.10 (4) (cs) Education expenses credit under s. 71.07 (8m).

24 (END)